

THE HONORABLE THOMAS S. ZILLY

U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

STRIKE 3 HOLDINGS, LLC, a Delaware
corporation,

Plaintiff,

vs.

JOHN DOE, subscriber assigned IP
address 73.225.38.130,

Defendant.

NO. 2:17-cv-01731-TSZ

**DECLARATION OF ADRIENNE D.
McENTEE IN SUPPORT OF
MOTIONS TO COMPEL
PRODUCTION OF DOCUMENTS
(ECF 94 AND 96).**

JOHN DOE subscriber assigned IP
address 73.225.38.130,

Counterclaimant,

vs.

STRIKE 3 HOLDINGS, LLC,

Counterdefendant.

I, Adrienne D. McEntee, hereby declare as follows:

1. I am a member of Terrell Marshall Law Group PLLC and counsel of record for Defendant in this matter. I have personal knowledge of the facts set forth in this declaration.

1 2. On February 26th, I emailed Strike 3's counsel requesting a time to meet and
2 confer regarding Strike 3's responses to Doe's requests for production.

3 3. On March 1st, having not heard from Strike 3's counsel, I emailed again, asking
4 to meet and confer about Strike 3's discovery responses on March 4th. Strike 3's counsel
5 responded that they were unavailable to confer until March 7th.

6 4. Prior to the March 7th conference, counsel exchanged emails regarding the
7 parties' respective positions on whether Strike 3 should produce the IPP software. Strike 3's
8 counsel represented that it would "ask IPP [for the software], but my client cannot compel or
9 order them to produce the information that you request. It appears to us that Defendant serving
10 a subpoena on IPP for the materials it wants is the proper discovery mechanism."

11 5. On March 7th, the parties conferred by telephone regarding all requests for
12 production that are the subject of Doe's motions to compel, filed at ECF 94 and 96. At no point
13 during the conversation did Strike 3 indicate it had the authority to accept a subpoena on behalf
14 of IPP. Nor did Strike 3 confirm it asked IPP for the software, as it promised to do. Instead,
15 Strike 3's counsel maintained that Strike 3 did not have possession, custody, or control of the
16 software.

17 6. The parties reiterated their respective positions regarding the outstanding
18 requests for production in March 11th and March 12th emails. Absent from these emails is any
19 offer by Strike 3's counsel to accept a subpoena on behalf of IPP.

20 7. On March 13, I wrote to Strike 3's counsel: "In the telephonic meet and confer
21 we had last week, we made clear that we disagree with your objections. We also explained why
22 we believe our requests are relevant and proportional to our counterclaims. The purpose of the
23 call was to give your client another opportunity to provide documents and ESI in response to
24 the requests at issue. You have provided your client's position on these issues below. If your
25 client changes its mind, I am available to meet and confer tomorrow or Friday." Strike 3's
26 counsel did not respond to this offer.

1 8. In their March 12th email, Strike 3's counsel promised to send an electronic link
2 with public articles about Strike 3, and additional evidence about other BitTorrent swarms in
3 response to Requests 21 and 22. The next day, we notified Strike 3's counsel that we had not
4 received the link and asked whether it had been sent. Strike 3's counsel did not respond.

5 9. After we read Strike's opposition, we searched and regrettably found that
6 someone else in Fox Rothschild's office (not Mr. Bandlow or Mr. Case) later sent a link to
7 these documents, but the link had expired. We immediately requested the documents from
8 Strike 3's counsel, who timely reproduced the documents.

9 10. Doe's counsel has since reviewed the documents, which are comprised of
10 screenshots from public websites containing pornographic images and charts indicating top
11 selling adult DVDs, and publicly available public relations articles regarding Mr. Lansky and
12 Strike 3. There are no internal documents regarding the piracy Strike 3 alleges it endured, and
13 no internal documents regarding Strike 3's DVD sales.

14 11. Attached as Exhibit A is a true and correct copy of counsel's email exchanges
15 between February 26 and March 13.

16 12. Attached as Exhibit B is a true and correct excerpt from the rough transcript of
17 Jessica Fernandez, one of Strike 3's in-house lawyers and its primary Rule 30(b)(6) designee.
18 Ms. Fernandez testified that Strike 3 did not ask IPP whether it would produce the software
19 until last week.

20 13. Counsel does not yet have a copy of Mr. Lansky's deposition. However, counsel
21 recalls that Mr. Lansky testified he was unable to provide the names of Strike 3's licensees
22 (except for one) because the company has thousands.

23 14. I searched Westlaw's dockets to determine the number of lawsuits Strike 3 filed
24 since 2017 and found over 3,000. In many, if not most of these cases, Strike 3 relied on form
25 declarations from Tobias Fieser, Susan Stalzer, and John Pasquale to support motions for early
26 discovery.
27

1 15. In contrast, I found just two lawsuits by Disney Enterprises, Inc. during the same
2 period.

3 16. Attached as Exhibit C is a true and correct copy of a document identified as
4 numbers S3H (217-cv-01731)_000427 to S3H (217-cv-01731)_000445.

5 17. Our firm never litigated against or met Emilie Kennedy or Lincoln Bandlow
6 prior to this case.

7 18. Attached as Exhibit D is a true and correct excerpt from the rough transcript of
8 Susan Stalzer.

9 19. Attached as Exhibit E is a true and correct excerpt from the rough transcript of
10 John Pasquale.

11
12 I declare under penalty of perjury under the laws of the United States that the foregoing
13 is true and correct.

14 EXECUTED in Seattle, Washington, this 19th day of April, 2019.

15
16
17 /s/ Adrienne D. McEntee, WSBA #34061
 Adrienne D. McEntee, WSBA #34061

CERTIFICATE OF SERVICE

I, Adrienne D. McEntee, hereby certify that on April 19, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Bryan J. Case, WSBA #41781
Email: bcase@foxrothschild.com
FOX ROTHSCCHILD LLP
1001 Fourth Avenue, Suite 4500
Seattle, Washington 98154
Telephone: (206) 624-3600
Facsimile: (206) 389-1708

Lincoln D. Bandlow, *Admitted Pro Hac Vice*
Email: lbandlow@foxrothschild.com
FOX ROTHSCCHILD LLP
10250 Constellation Blvd., Suite 900
Los Angeles California 90067
Telephone: (310) 598-4150
Facsimile: (310) 556-9828

John C. Atkin, *Admitted Pro Hac Vice*
Email: jatkin@atkinfirm.com
THE ATKIN FIRM, LLC
55 Madison Avenue, Suite 400
Morristown, New Jersey 07960
Telephone: (973) 285-3239

Attorneys for Plaintiff

Joshua L. Turnham, WSBA #49926
E-mail: joshua@turnhamlaw.com
THE LAW OFFICE OF JOSHUA L. TURNHAM PLLC
1001 4th Avenue, Suite 3200
Seattle, Washington 98154
Telephone: (206) 395-9267
Facsimile: (206) 905-2996

Attorneys for Non-Party Donald Isaksen, Jr.

1 DATED this 19th day of April, 2019.

2 TERRELL MARSHALL LAW GROUP PLLC

3
4 By: /s/ Adrienne D. McEntee, WSBA #34061

5 Adrienne D. McEntee, WSBA 34061

6 Email: amcentee@terrellmarshall.com

7 936 North 34th Street, Suite 300

8 Seattle, Washington 98103-8869

9 Telephone: (206) 816-6603

10 Facsimile: (206) 319-5450

11 *Attorneys for Defendant*

- Exhibit A -

Adrienne McEntee

From: Adrienne McEntee
Sent: Wednesday, March 13, 2019 6:00 PM
To: 'Bandlow, Lincoln D.'; Case, Bryan J.
Cc: J. Curtis Edmondson
Subject: RE: Strike 3 v. Doe
Attachments: Strike 3-Defendant's 30(b)(6) Notice.pdf

Mr. Bandlow,

Thank you for confirming April 11 and 12 for the deposition of Mr. Lansky and the Rule 30(b)(6) deposition. As requested, attached please find the Rule 30(b)(6) Notice and List of Topics. Please let us know who you intend to designate. If you need to designate more than one witness, we may need to spill into an additional day, so please let us know as soon as possible.

In the telephonic meet and confer we had last week, we made clear that we disagree with your objections. We also explained why we believe our requests are relevant and proportional to our counterclaims. The purpose of the call was to give your client another opportunity to provide documents and ESI in response to the requests at issue. You have provided your client's position on these issues below. If your client changes its mind, I am available to meet and confer tomorrow or Friday. However, we are not willing to extend non-productive telephonic conferences any longer than necessary.

We asked that you provide April deposition dates for Mr. Fieser, Mr. Pasquale, and Ms. Staltzer. Please provide dates by the end of the week. If you will not produce these witnesses, or believe that you cannot produce them for some reason, likewise, please let us know by the end of the week.

Our client is available to be deposed after April 15th.

Finally, we did not receive a link from Kiteworks. Did you send it? If not, please do so.

Adrienne D. McEntee
Terrell | Marshall Law Group PLLC
936 N 34th Street, Suite 300 | Seattle, WA 98103
T 206.816.6603 | F 206.319.5450

From: Bandlow, Lincoln D. <lbandlow@foxrothschild.com>
Sent: Tuesday, March 12, 2019 6:14 PM
To: Adrienne McEntee <amcentee@terrellmarshall.com>; Case, Bryan J. <bcase@foxrothschild.com>
Cc: J. Curtis Edmondson <jcedmondson@edmolaw.com>
Subject: RE: Strike 3 v. Doe

Ms. McEntee,

We are all set for Mr. Lansky's deposition on April 11, 2019. With respect to the 30(b)(6) deposition, we agree to the April 12, 2019 date. However, while I hope there are no issues, we reserve the right to object to any topics outside the knowledge of any Strike 3 representative. Please send me the Notice and List of Topics as soon as you are able and we can finalize the April 12 date.

With regard to the documents sought in Defendant's RFPs Nos. 1-9, 16-22, 24, 25, and 26, please see the below:

- RFP 1: We maintain that we do not have possession, custody, or control of the "object code" of IPP's system.
- RFP 2: We maintain that we do not have possession, custody, or control of the "source code" of IPP's system.
- RFP 3: We maintain that we do not have possession, custody, or control of the "third-party software licenses" for IPP's system.
- RFP 4: We maintain that we do not know what "build files" even are. And, Defendant has not provided an explanation.
- RFP 5: To the extent our expert reports are considered "validation test files" we already produced our expert reports (bate stamped 000155-000180). Otherwise, we are not in possession, custody, or control of any "validation test files," if any even exist.
- RFP 6: We already produced all the PCAPs and .torrent files (Bate # 000280-000386), a single flash drive containing the infringed movies and the control copies of the movies (Bate # 000387), the infringement logs (Bate # 000278-000279). Please advise if there are other documents this request is referring to which you believe were not produced.
- RFP 7: We produced our expert reports already (bate stamped 000155-000180).
- RFP 8: We produced our expert reports already (bate stamped 000155-000180).
- RFP 9: The only such responsive documents in our possession, custody, or control are the PCAPs, which Plaintiff already produced (Bate # 000280-000386)
- RFP 16: We maintain our objections.
- RFP 17: All documents we already produced are responsive to this request (PCAPs, infringement log file, .torrent files, control copies of the movies, infringing copies of the movies, and expert reports – see bate stamp numbers above). Of course, discovery is ongoing and Plaintiff will continue to produce responsive documents as it discovers additional documents. At this time, all responsive documents in its possession, custody, or control have been produced.
- RFP 18: We maintain our objections.
- RFP 19: We maintain our objections.
- RFP 20: We maintain our objections.
- RFP 21: We maintain our objections. Although there is no obligation to produce public documents, as a courtesy we will provide some public documents which support this fact.
- RFP 22: We maintain our objections. Although there is no obligation to produce public documents, as a courtesy we will provide some public documents which support this fact.
- RFP 24: We produced all the PCAPs and .torrent files (Bate # 000280-000386), a single flash drive containing the infringed movies and the control copies of the movies (Bate # 000387), and the infringement logs (Bate # 000278-000279).
- RFP 25: All the documents we produced are responsive to this request.
 - o Copyright certificates (0001-000154)
 - o Expert declarations of Stephen Bunting and Patrick Paige (000155-000180)
 - o Internet posts (000181-000277)
 - o infringement logs (000278-000279)
 - o PCAP files and 107 torrent files (000280-000386)
 - o A flash drive containing the infringing copies of the movies and the control copies (000387)
- RFP 26: Plaintiff already produced a flash drive containing the infringing copies of the movies (previously referred to as .tar files) and the control copies (000387).

Finally, as a courtesy, we are also providing: numerous articles discussing Strike 3's piracy issues and its reputation and success in the adult entertainment industry, and the Additional Evidence listing other

BitTorrent swarms within which the relevant IP address participated. Since the files are large, we will need to send them to you through Kiteworks. I will send those shortly.

If there are any documents which you or your co-counsel believe are missing, please let me know and I can have them resent. Or if you disagree with any of our objections, we can set time aside to confer in detail.

Finally, please confirm the date of your client's deposition that we discussed.

Thanks,

Lincoln Bandlow
Partner
Fox Rothschild LLP
10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
(310) 228-2913 - direct
(310) 556-9828- fax
ibandlow@foxrothschild.com
www.foxrothschild.com

From: Adrienne McEntee <amcentee@terrellmarshall.com>
Sent: Monday, March 11, 2019 10:23 AM
To: Bandlow, Lincoln D. <ibandlow@foxrothschild.com>; Case, Bryan J. <bcase@foxrothschild.com>
Cc: J. Curtis Edmondson <jcedmondson@edmolaw.com>
Subject: [EXT] RE: Strike 3 v. Doe

Mr. Bandlow and Mr. Case,

Thank you for speaking with us last Thursday.

As we discussed, attached please find the Amended Deposition Notice for Mr. Lansky's April 11th deposition in Pasadena.

We also discussed scheduling issues related to expert disclosures and the remaining depositions, including the Rule 30(b)(6), and the depositions of Mr. Fieser, Mr. Pasquale, and Ms. Staltzer. We understand that you will circulate a proposed stipulation to extend deadlines for expert disclosures and completion of discovery. Will you circulate the proposed stipulation today?

We would like to take the Rule 30(b)(6) deposition on April 12th to avoid making multiple trips to Los Angeles. Please let us know whether you can accommodate this date by tomorrow, if possible. We expect to provide the Rule 30(b)(6) notice this week.

Regarding Strike 3's responses to requests for production, you agreed to let us know the following by end of day on March 12th:

1. With respect to RFPs 1 through 9, whether IPP will produce documents and ESI that Strike 3 alleges are not in Strike 3's possession and control.
2. Whether your client's position has changed with respect to its refusal to produce documents or ESI in response to RFPs 16 through 22.

3. Whether Strike 3 has produced documents or ESI in response to RFPs 24, 25, and 27, and if so, identify the bates numbers.

Finally, we provided you with a link to the model ESI protocol in the Western District of Washington. We understand you will circulate the protocol with suggested revisions.

Adrienne D. McEntee

Terrell | Marshall Law Group PLLC

936 N 34th Street, Suite 300 | Seattle, WA 98103

T 206.816.6603 | F 206.319.5450

From: Adrienne McEntee

Sent: Thursday, March 07, 2019 2:11 PM

To: 'Bandlow, Lincoln D.' <lbandlow@foxrothschild.com>; Case, Bryan J. <bcase@foxrothschild.com>

Cc: J. Curtis Edmondson <jcedmondson@edmolaw.com>

Subject: RE: Strike 3 v. Doe

Mr. Bandlow,

Your client relied on the testimony of two witnesses (one of whom is an IPP employee), both of whom describe their use of, or reliance upon, IPP software. That testimony was used to justify your client's request to obtain early discovery. Moreover, your client's infringement claim was based entirely on the results of IPP's software. As you know, we challenge the software's reliability. If you decline to obtain the information requested in requests for production one through nine, we may move to compel the information and/or seek exclusion of any evidence (including testimony) that relies on the IPP software.

Thank you, again, for providing us the extension to March 18th to respond to your client's discovery requests. Your client should have the opportunity to have an expert review our production. We do not oppose a 30-day extension to April 15th for your client to produce an expert report for this purpose. We request a similar extension for our expert(s) to opine regarding the IPP software. We should also discuss deadlines for rebuttal reports.

We do not agree to the proposed protective order, however. The Western District of Washington has its own protocol governing ESI, found here: <https://www.wawd.uscourts.gov/sites/wawd/files/61412ModeleDiscoveryProtocol.pdf>. We are open to discussing revisions to the model protocol that make sense, but feel strongly that this is the starting point.

We are not opposed to the subpoena to Comcast, but ask that we receive contemporaneous production. Regarding Mr. Lansky's deposition, April 11th and 12th work well for us.

We can discuss the remaining requests for production, and whether your client will produce documents, during our call.

Finally, we would like to discuss scheduling the Rule 30(b)(6) deposition, and the depositions of Mr. Fieser, Mr. Pasquale, and Ms. Staltzer. April is generally open for us.

Adrienne D. McEntee

Terrell | Marshall Law Group PLLC

936 N 34th Street, Suite 300 | Seattle, WA 98103

T 206.816.6603 | F 206.319.5450

From: Bandlow, Lincoln D. <lbandlow@foxrothschild.com>

Sent: Tuesday, March 05, 2019 9:38 AM

To: Adrienne McEntee <amcentee@terrellmarshall.com>; Case, Bryan J. <bcase@foxrothschild.com>

J. Curtis Edmondson <jcedmondson@edmolaw.com>

Subject: RE: Strike 3 v. Doe

Ms. McEntee,

I wanted to address a number of the points made in your prior letter.

First, as you are well aware, we have produced hundreds of ESI files demonstrating infringement through your client's IP address. We will produce our expert reports in accordance with the Court's deadlines.

I'm not sure how you expect my client to produce software code and a system inspection for software that my client does not own and which is in the possession, custody, and control of a third party, IPP. We would not ask your client (or your client's son) to produce the software code for the uTorrent BitTorrent system on his computer - obviously utilizing the software doesn't mean you have access to its code and system. My client will ask IPP, but my client cannot compel or order them to produce the information that you request. It appears to us that Defendant serving a subpoena on IPP for the materials it wants is the proper discovery mechanism. If you have authority stating that a party is required to obtain materials within the possession, custody, and control of a third party and then produce such material in discovery, please provide it so I can review it with my client.

Because we have been very generous in providing you with two lengthy extensions to respond to our discovery requests, we have yet to receive your client's hard drives, nor will we until after the expert deadline. I trust that you will consent to a reasonable thirty-day extension (from the date you actually provide us the hard drives) to accommodate the extension we provided you. Let us know if you will not so we can bring it to the attention of the court.

In connection with your producing that material, attached is a proposed protective order to govern your client's hard drives. Fair warning - it contains your client's name and address (which is necessary for it to be enforceable). Any filed version must redact this pursuant to the Court's order. The Western District of Washington standard order does not actually address hard drives, so it is necessary that we enter into one that does. Please advise if this is acceptable.

We intend to subpoena Comcast for additional discovery relating to the infringement that occurred through your client's IP address. Attached is our subpoena. We will seek a court order to do so. Please advise if you oppose.

Regarding the deposition of Mr. Lansky, he is not available until March 20, but unfortunately I am tied up in depositions and hearings almost all of March. Please let me know if the week of April 8-12 is open for you. I may also have availability April 3.

We can speak about this and any other issues in our call on Thursday.

Lincoln Bandlow
Partner
Fox Rothschild LLP
10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
(310) 228-2913 - direct
(310) 556-9828- fax

bandlow@foxrothschild.com
www.foxrothschild.com

From: Adrienne McEntee <amcentee@terrellmarshall.com>
Sent: Monday, March 04, 2019 2:01 PM
To: Case, Bryan J. <bcase@foxrothschild.com>; Bandlow, Lincoln D. <bandlow@foxrothschild.com>
Cc: J. Curtis Edmondson <jcedmondson@edmolaw.com>
Subject: [EXT] RE: Strike 3 v. Doe

Let's talk at 3pm Pacific on Thursday. We will send a calendar invite. Note that while our email focused on RFPs 1 through 9, we will also seek confirmation regarding whether Strike 3 intends to produce documents or ESI with respect to every other RFP in which Strike 3's responses indicated it did not intend to do so.

Adrienne D. McEntee
Terrell | Marshall Law Group PLLC
936 N 34th Street, Suite 300 | Seattle, WA 98103
T 206.816.6603 | F 206.319.5450

From: Case, Bryan J. <bcase@foxrothschild.com>
Sent: Sunday, March 03, 2019 5:50 PM
To: Adrienne McEntee <amcentee@terrellmarshall.com>; Bandlow, Lincoln D. <bandlow@foxrothschild.com>
Cc: J. Curtis Edmondson <jcedmondson@edmolaw.com>
Subject: RE: Strike 3 v. Doe

Hi Adrienne,

Unfortunately, Lincoln and I are unavailable Monday, Tuesday, and Wednesday due to other matters/conflicts. We are free Thursday. Let us know a time on Thursday that works for you to discuss and we will mark our calendars. In the meantime, Lincoln will be providing a substantive response to your email below.

Best,

Bryan

Bryan Case
Partner
Fox Rothschild LLP
Direct: (206) 389-1643
Cell: (425) 890-5112

From: Adrienne McEntee <amcentee@terrellmarshall.com>
Sent: Friday, March 1, 2019 4:39 PM
To: Case, Bryan J. <bcase@foxrothschild.com>; Bandlow, Lincoln D. <bandlow@foxrothschild.com>

: J. Curtis Edmondson <jcedmondson@edmolaw.com>

Subject: [EXT] RE: Strike 3 v. Doe

Bryan,

As we indicated in the response to the motion for summary judgment, we do not believe Strike 3 may rely on an investigation for which it has no supporting documentation/ESI. Strike 3 has repeatedly represented that evidence which would purportedly substantiate IPP's infringement detection investigation, including the object code, source code, testing, validation, or inspection of the software, and the monitoring IP addresses "are in the exclusive possession, custody, and control of IPP International, UG's ("IPP") a third party over whom Plaintiff has no control."

We would like to confer regarding whether you are going to maintain this position or whether you are willing to obtain the information from IPP. We would also like to confirm whether you have produced all expert reports covered by RFP 7 and RFP 8. We will call you Monday afternoon at 3 p.m. to confer about these issues unless we reach agreement on another time prior to Monday.

We also look forward to learning on Monday which specific dates Mr. Lansky will be available for his deposition, and have a further discussion regarding when we may schedule the remaining depositions.

Have a nice weekend.

Adrienne D. McEntee

Terrell | Marshall Law Group PLLC

936 N 34th Street, Suite 300 | Seattle, WA 98103

T 206.816.6603 | F 206.319.5450

From: Case, Bryan J. <bcase@foxrothschild.com>

Sent: Friday, March 01, 2019 1:35 PM

To: Adrienne McEntee <amcentee@terrellmarshall.com>; Bandlow, Lincoln D. <bandlow@foxrothschild.com>

Cc: J. Curtis Edmondson <jcedmondson@edmolaw.com>

Subject: RE: Strike 3 v. Doe

Hi Adrienne,

Adding Lincoln Bandlow to this email so he can respond. In the interim, can you please provide us details with what you'd like to discuss regarding RFPs 1-9?

Bryan

Bryan Case

Partner

Fox Rothschild LLP

Direct: (206) 389-1643

Cell: (425) 890-5112

From: Adrienne McEntee <amcentee@terrellmarshall.com>

Sent: Friday, March 1, 2019 1:31 PM

To: Case, Bryan J. <bcase@foxrothschild.com>

Cc: J. Curtis Edmondson <jcedmondson@edmolaw.com>

Subject: [EXT] RE: Strike 3 v. Doe
Importance: High

Bryan,

We have not heard back from you regarding our request to confer regarding Strike 3's responses to requests for production one through nine. Are you available to confer on Monday, March 4th?

Thank you.

Adrienne D. McEntee
Terrell | Marshall Law Group PLLC
936 N 34th Street, Suite 300 | Seattle, WA 98103
T 206.816.6603 | F 206.319.5450

From: Adrienne McEntee
Sent: Tuesday, February 26, 2019 4:15 PM
To: 'bcase@foxrothschild.com' <bcase@foxrothschild.com>
Cc: 'J. Curtis Edmondson' <jcedmondson@edmolaw.com>
Subject: Strike 3 v. Doe

Bryan,

Thank you for your message. Curt and I tried you by phone a few minutes ago but ended up in voice mail. Please let us know when you're available to talk.

We would also like to schedule a time to meet and confer regarding Strike 3's responses to requests for production one through nine.

Adrienne D. McEntee
Terrell | Marshall Law Group PLLC
936 N 34th Street, Suite 300 | Seattle, WA 98103
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This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

- Exhibit B -

Sandra Mitchell
C.S.R. 12553

17 before Sandra Mitchell, C.S.R. 12553, pursuant to Notice.

18

19

20

21

22

23

24

25

THIS IS A ROUGH TRANSCRIPT
DO NOT CITE

3



1 APPEARANCES:

2 For the Plaintiff, STRIKE 3 HOLDINGS, LLC:

3 Firm
4 BY: Attorney , ESQ.

5

6

7 For the , Dft :

8 Firm Name
9 BY: Attorney Name , ESQ.

10

11

12 For the , Dft :

11 A Yes.

12 Q I'm not asking you to do it?

13 A Fair enough.

14 Q So we went through Dorcel, and that leaves us
15 with the fifth agreement Porn Hub?

16 A Yes.

17 Q And tell me about the distribution agreement
18 with the Porn Hub. How do you -- what's your
19 understanding of Porn Hub?

20 A Porn Hub is a website pornhub.com and they have
21 a number of different pornographic works on the website.
22 They also I believe offer membership, if you wanted get
23 a membership and have access to certain select content.
24 But it allows any average use who doesn't have a
25 membership to view content if they wanted to just go on

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DO NOT CITE

117

↑

1 the website. A lot of like You tube if they wanted to
2 view pornography.

3 Q So if you wanted to look at porn --

4 A You could stream a lot.

5 Q -- that's a good place to do it?

6 A Sure.

7 Okay. And you've looked at the Pornhub -- Pornhub?

8 A The website?

9 Q Yeah.

10 A Yes.

11 Q Okay.

12 A I have viewed that website.

13 Q Okay. And have you seen your works on this

14 Pornhub site?

15 A I have not seen. I haven't logged in to view

16 our works from the Pornhub website.

17 Q And is there any reason why not?

18 A I have access to our works already, so I

19 wouldn't need to go on it.

20 Q Well, I was just curious.

21 And you haven't seen -- when you perused the

22 Pornhub site, have you seen any of your works -- well,

23 let me back up a little bit.

24 When you went to Pornhub.com, did you see your

25 works?

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DO NOT CITE

118

↑

1 A I never went into Pornhub.com with the

2 intention of looking for the works.

3 Q Okay.

4 A Our works.

5 Q Were you -- you were looking for other works?

6 A Yes.

7 Q Okay. And was it just to get a sense of what

8 Pornhub's all about?

9 A Not always.

10 Q Okay. I just -- I don't want to know what you

11 do on Pornhub. I want to get an idea of what your

12 understanding of Pornhub is.

13 A Yes.

14 Q Because it's a -- apparently, you have an

15 agreement with them.

16 A I would go on there and I've been on there

17 before in my capacity as representing Malibu Media.

18 Q Okay.

19 A So that's why.

20 Q Oh, okay. Did Malibu Media also have stuff on

21 this Pornhub?

22 A I think there were a lot of infringements that

23 were happening on Pornhub from Malibu and -- so yeah.

24 Yes.

25 Q What's your agreement with Pornhub?



1 A So the agreement with Pornhub is it allows us
2 to provide -- or be able to upload some of our movies
3 through our own username so that people who have a
4 Pornhub membership have access to it. In addition, it
5 also allows us to upload trailers if we would like to do
6 that. But it's strictly for those with, like, a
7 membership access to Pornhub.com.

8 Q So I can go to Pornhub and access the works via
9 Pornhub?

10 A Right. If you have a membership.

11 Q Okay. And is this membership -- help me with
12 this a little bit. Is the membership a Pornhub --
13 Pornhub membership?

14 A Yes.

15 Q Okay. So I'd get a user ID and password for
16 Pornhub?

17 A Right.

18 Q Give Pornhub some money?

19 A Correct.

20 Q And then I could get all the works of Strike 3
21 Holdings?

22 A It wouldn't be all of the works. It would be
23 just the ones we wanted to upload. We decided to

24 upload.

25 Q A subset of the works?

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120



1 A Sure. Yes.

2 Q And how long has this Pornhub arrangement been
3 in place?

4 A I don't recall.

5 Q Did you look at the agreement with Pornhub?

6 A I did.

7 Q Okay. Did you note any dates on it?

8 A No. I mean, I'm sure there is one. I just
9 don't remember it right now.

10 Q Okay. And so if you go onto Pornhub and access
11 through their portal, do you see the -- through the
12 subscription site, do you see the entire work?

13 MR. BANDLOW: Objection. Lacks foundation.

14 BY MR. EDMONDSON:

15 Q Well?

16 A So if I'm a subscriber of Pornhub.

17 Q Correct.

18 A Some sort of premium membership.

19 Q Okay.

20 A It's called premium something.

21 Q Yeah.

22 A I don't know. You would be able to see the

23 full -- any full work that our user account uploaded,

24 yes.

25 Q Understood. And so this full work, is it

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121

↑

1 streamed?

2 A Yes. I believe so.

3 Q And is it also downloadable?

4 A I don't remember. I don't remember if it was

5 downloadable.

6 Q What about on Vixen, was it downloadable?

7 A Yes.

8 Q Okay. And so you can save it as a MP4?

9 A There's a number of different formats you can

10 save it in.

11 Q Okay. And have you ever gone on the Vixen or

12 Blacked site and downloaded directly from there?

13 A No, I have not personally.

14 Q So how do you know it works?

15 A I have logged in to, I think it was the Vixen

16 website. I was able to see that it was available in

17 different formats. I just never clicked on it.

18 Q Okay.

19 A To download onto my computer.

20 Q Okay.

21 A But assume that if it did not work, we would

22 hear --

23 Q You'd hear about it?

24 A -- an earful from our subscribers and...

25 Q And you mentioned that you worked with another

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122

↑

1 pornographic company, Malibu Media?

2 A Yes, that's correct.

3 Q And did have sort of a similar feature on their
4 site?

5 MR. BANDLOW: I.e., that you could download
6 movies?

7 THE WITNESS: Yes.

8 BY MR. EDMONDSON:

9 Q Okay. And did you ever try it on their site?

10 A Yes.

11 Q Okay. The download feature?

10 THE WITNESS: Yeah, I -- I don't know. We
11 wouldn't want to look at a ton of raw data. We would
12 want something very narrow so we have -- it would be
13 overwhelming for anyone to look at the raw data.

14 BY MR. EDMONDSON:

15 Q Well, in that raw data set you get from IPP,
16 have you ever taken the IP address from that and sent a
17 DMCA notice to that IP address?

18 A No.

19 Q Why not?

20 A That's not how our DMCA process works. So it
21 just wouldn't be -- that's not to say that that IP
22 address never received a DMCA notice. It's just not the
23 way that the -- like it -- it's not what -- I don't
24 know -- I guess I don't really know, like, what you're
25 asking.

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161

↑

1 Q Okay. Well, let me restate it.

2 A You just want to know why we don't send a DMCA
3 notice to an IP address?

4 Q No. I -- well, what I'm saying is you get this
5 big dataset with IP addresses on it; correct?

6 A Yes.

7 Q And that IP address could have -- if the system

8 that from IPP, which measures something; correct?

9 Infringements?

10 A Yes.

11 Q Of your works; correct?

12 A Yes.

13 Q And so at that point, do you believe that those

14 people are infringing?

15 A Yes.

16 Q Okay. Because if it goes through --

17 A Sure.

18 Q -- this process, the end result should be --

19 A Yes.

20 Q -- accurate infringements? A set of accurate

21 data?

22 A Yes.

23 Q Okay. Because you want that dataset, at the

24 end of the pipeline, to be accurate; correct?

25 A Yes.

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162

↑

1 Q Okay. So you're throwing away a lot of data

2 through that process; is that a fair statement?

3 MR. BANDLOW: Objection. Lacks foundation.

4 Misstates testimony.

5 You can answer.

6 THE WITNESS: We don't use that data.

7 BY MR. EDMONDSON:

8 Q You filter it out?

9 A We filter it out.

10 Q Okay. But those IP addresses, in your mind,
11 have infringed; correct?

12 A Yes.

13 Q And so why don't you send DMCA notices to those
14 IP addresses that you filtered out?

15 A This seems like just an argumentative question,
16 but I will say that DMCA notices don't --

17 MR. BANDLOW: Don't go to ISP addresses.

18 THE WITNESS: We -- I can't send an IP address
19 a DMCA notice. That's not really how it works.

20 BY MR. EDMONDSON:

21 Q And how does Strike 3 Holdings -- because
22 you're representing Strike 3 Holdings. How does Strike
23 3 Holdings know you can't send a DMCA notice to an IP
24 address?

25 A It's not like this deliverable, like, address

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DO NOT CITE

163

↑

1 that I can just send a DMCA notice. I would have to
2 probably go through the internet service provider and
3 send it to the internet service provider.

4 Q But you know who the internet service provider
5 is from those IP addresses; correct?

6 A So you're asking me why we don't send DMCA
7 notices to the internet service provider?

8 Q That's what I'm saying, but you beat me to it.

9 A Okay.

10 Q So, yeah, why don't you?

11 A Well, DMCA notices don't really seem to be
12 working very well. And they're especially not going to
13 work for people who are serial infringers and have the
14 kind of infringements that's we're monitoring. They're
15 not very productive.

16 Q But you just stated that these people -- of
17 that set, only a subset of the data are the serial
18 infringers.

19 A Yes.

20 Q Some of them are just, you know, occasional
21 infringers?

22 A Within the data of people we sue on?

23 Q Yeah. You're spending a lot of money on this
24 IPP data that you get.

25 A Oh, I'm aware we're spending a lot of money,

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164

↑

1 yes.

2 Q Yeah. And that information has value; right?
3 That IP address has value to you because it identifies
4 an infringer; correct?

5 A Sure.

6 Q Okay. What -- I need to understand why IPP
7 does not use that IP address --

8 MR. BANDLOW: You mean why Strike 3 does not
9 use that IP address?

10 MR. EDMONDSON: Yeah. I get it.

11 MR. BANDLOW: Because we're going to get
12 confused.

13 MR. EDMONDSON: There's three letters.

14 BY MR. EDMONDSON:

15 Q I need to know why Strike 3 Holdings does not
16 use that IP information provided by IPP to give notice
17 to these infringers?

18 A Because DMCA notices do not work.

19 Q How do you know that?

20 A With respect to BitTorrent, DMCA notices do not
21 work.

22 Q How do you know that?

23 A Well, I mean, just even in this case alone, you
24 know, obviously, we've spoken about the deposition of
25 the defendant and he received a DMCA notice.

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165

↑

1 Q Do you know when he received the DMCA notice?

2 A I don't when he received the DMCA notice.

3 Q Do you know if he received the DMCA notice from
4 Strike 3 Holdings?

5 A I know that he did not receive a DMCA notice
6 from Strike 3 Holdings.

7 Q Because you didn't send him a DMCA notice;
8 correct?

9 A Correct.

10 Q So how do you know it doesn't work?

11 A I mean, there's plenty of articles that talk
12 about the failure of Strike 3 -- I'm sorry, the six
13 strikes program and what a failure that was. And
14 there's -- and that's all, like, public knowledge about

15 how DMCA notices and notifying pirates just doesn't

16 really work. Even if it's going to the end user.

17 Q Have you run a test to see if it works or

18 doesn't work?

19 A I don't need to run a test. It's widespread

20 knowledge that it doesn't work.

21 Q So what articles can you state that for

22 Strike 3 data being sent to an ISP, a DMCA notice would

23 not work?

24 A I'm sorry. Can you say that again?

25 Q Yeah. I'll say it again. What articles would

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166

↑

1 say specifically that a DMCA notice being sent from

2 Strike 3 Holdings to an IP address would not work?

3 A There's no article that says that.

4 Q Okay. So you don't actually know that for

5 Strike 3 Holdings it would work or not work; correct?

6 A No, I know it would not work.

7 Q Okay. Then I need to know what empirical data

8 or --

9 A Sure.

10 Q -- scientific data that would say it would not

11 work?

12 A So in my experience in working on BitTorrent
13 litigation cases, I have come across instances where
14 defendants have received hundred of notices. I had a
15 defendant once that received a phone call from his
16 internet service provider. I had a defendant who
17 received a voicemail through the Strike 3 program and we
18 still flagged it as an infringer coming up in our data
19 and someone that we sued.

20 Q Oh, you --

21 A So I know with certainty that this program does
22 not work.

23 Q You know for certainty?

24 A I know with certainty.

25 Q But you didn't -- you didn't want to test it?

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167



1 A I mean, how would -- I don't know how we would
2 test it.

3 Q Well, you just explained --

4 A I mean, we -- I know because of my experience
5 as an attorney representing these clients and in the
6 discovery that came out in certain cases, but I'm not

7 sure how I would test that. And I'm definitely not sure
8 how I would test it in a particular circumstance. Like,
9 I don't --

10 Q Have you --

11 A Did you -- sorry.

12 Q I'm sorry. Go ahead.

13 A No, go ahead.

14 Q Did you talk to Sid about running a test of
15 this type? He's a --

16 A Sid would not work on this. I mean, no, I
17 don't -- no.

18 Q When you were at Malibu, did you send any DMCA
19 notices out to IP addresses?

20 A Malibu would send DMCA notices. I don't
21 believe that they would send them to the internet
22 service providers.

23 Q Oh. That's the --

24 A But they may have. But I don't think that they
25 did, if I had to...

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168

↑

1 Q How effective has it been sending DMCA notices
2 to non -- to non IP addresses?

6 Q Okay.

7 A Not usually.

8 Q And so you -- but at this point, can you
9 identify an individual using that computer?

10 A I guess I'm not -- you want me to be able to
11 identify -- you're asking me who the infringer is, it
12 sounds like.

13 MR. BANDLOW: When we have all this data, do we
14 know the specific individual?

15 THE WITNESS: Oh, yeah, no. There's -- you
16 know, no.

17 BY MR. EDMONDSON:

18 Q So any person who's accessed that IP address;
19 correct?

20 A Yeah.

21 Q Okay. And does IPP know that multiple people
22 can access the IP address?

23 A I don't what IPP knows.

24 Q Excuse me. I mixed it up. Does Strike 3

25 Holdings know that multiple individuals can access an IP

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187

↑

1 address?

2 A Absolutely.

3 Q Okay. And how do you account for the fact that
4 multiple people in a household can access that
5 particular IP address?

6 A How do I know that?

7 Q No, how do you -- how do you account for it in
8 your determination of the worst of the worst?

9 A Oh. So that determination is -- it's not
10 something that we are able to really look at until after
11 we get the defendant's name. So once we know who the
12 defendant is, we can -- and where they live, of course,
13 we can, you know, determine if they might be living with
14 someone, say a son perhaps, or a wife. We know if they
15 live in an apartment complex. At times later on even in
16 discovery, other information is disclosed and they may,
17 you know, be able to tell us if they had a tenant in the
18 home. That happens sometimes during settlement
19 negotiations, a defendant will bring forth exculpatory
20 evidence that says, you know, I actually have a tenant;
21 here's the lease that proves it. And at that point, you
22 know, we obviously abide by Rule 11 and we wouldn't
23 pursue someone that we knew was not the infringer, so
24 long as we knew that they were not the infringer. But
25 it's hard to do that when you don't have someone's name.

20 Do you recall how much Rightscorp charged you
21 for the services during that short contract period?

22 A Which services?

23 Q The DMCA services?

24 A I don't recall that number.

25 Q Okay. Do you know who at Strike 3 Holdings

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196

↑

1 would have that number?

2 A It would be within the agreement, actually. I
3 don't that anyone could remember off the top of their
4 head. Maybe Emily might, but the source would be the
5 agreement.

6 Q Okay. And did you ask IPP to provide you with
7 the source code?

8 A Yes, we did.

9 Q And what did they say?

10 A I don't believe we ever received a response.

11 Q Did you follow up on that response?

12 A No.

13 Q Why was -- why is that?

14 A I -- to my knowledge, we only made the response
15 recently, so it was -- there hasn't been enough time to,

16 like, send a follow-up. It was within the last few days

17 is what I'm saying.

18 Q Okay. Do you expect a response from them?

19 A Yeah.

20 Q You're --

21 A Yes.

22 Q You're paying them a lot of money, so --

23 A Yeah.

24 Q -- you're a good client.

25 Who is your main contact at IPP?

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197

↑

1 A Tobias Fieser.

2 Q Okay. And how often do you talk to Mr. Fieser?

3 A I don't know.

4 Q You don't know how often you talk to

5 Mr. Fieser?

6 A No.

7 Q How often do you e-mail Mr. Fieser?

8 A I don't know.

9 Q Do you have daily e-mails with Mr. Fieser?

10 A It's possible, but I don't know.

11 Q You don't know how often you communicate?

12 A I don't know.

13 Q Can you estimate?

14 A No.

15 Q Do you get an e-mail from Mr. Fieser every day
16 of the week?

17 A I don't know.

18 Q Do you get an e-mail from Mr. Fieser at least
19 once a week?

20 A I don't know.

21 Q Do you get an e-mail from Mr. Fieser at least
22 once a month?

23 A I would be guessing. I don't know.

24 Q Well, where would we look to see if you get
25 e-mails from Mr. Fieser?

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198

↑

1 A In e-mail accounts.

2 Q And do you have an e-mail account at IPP?

3 A I don't have an e-mail account at IPP.

4 Q Okay. You don't have an e-mail at --

5 MR. BANDLOW: You keep saying IPP.

6 MR. EDMONDSON: Let's clear up the record.

7 BY MR. EDMONDSON:

- Exhibit C -

Document title: Greg Lansky: Most-Pirated Man in Porn | Inverse

Capture URL: <https://www.inverse.com/article/31350-greg-lansky-tushy-blacked-vixen-interview>

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The Most-Pirated Man in Porn Is Getting Angry

Adult film director Greg Lansky sends 50,000 takedown notices a month.



By Dylan Love on May 24, 2017

Filed Under Art, Instagram, Money & Sex

Greg Lansky is proud to be the most-pirated man in porn, but he's also annoyed.

amazon.com

Greg Lansky is proud to be the most-pirated man in porn, but he's also annoyed.



"Piracy sucks," says the CEO and creative lead behind *Blacked*, *Tushy*, and *Vixen*. "It takes money directly out of my pocket, but I continue to make money in porn because I'm doing things differently from the rest of the industry."

Lansky, a 34-year-old Frenchman living in Los Angeles, started his porn empire in 2014 and quickly differentiated himself by producing some of the best porn on the internet. His videos are shot on high-end cameras, make use of professional sound and lighting, high-end cameras, and feature top-notch talent. He's also a strong believer in porn's potential: "Adult performers, what YOU do is ART," he tweeted earlier this year.

Lansky's focus on quality and production value is working. He won the Adult Video News (AVN) Best Director award in 2016 and 2017, along with AVN awards for Best Cinematography, Best Anal Sex Scene, and a dozen more. Together, Lansky's sites get 20 million monthly uniques, and with users paying up to \$30 a month to access his content, he claims his revenues are "superior to 95 percent of the adult industry."



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Greg Lansky poses with a model.

But the biggest mark of his success is also the bit that frustrates him most: rampant piracy of his content. Lansky works with a company called [xTakeDowns.com](https://www.xTakeDowns.com) to identify when his videos are pirated and to solicit their removal from offending sites. That company “identified my work as the internet’s most-pirated adult content,” says Lansky.

He estimates that he sends out 50,000 DMCA takedown notices every month to the so-called “tube sites” that host free smut across the internet. Tube sites are easily understood as self-contained “YouTubes of porn.” Visitors browse content by category or date, and can even search keywords to find whatever content suits

the so-called “tube sites” that host free smut across the internet. Tube sites are easily understood as self-contained “YouTubes of porn.” Visitors browse content by category or date, and can even search keywords to find whatever content suits their tastes. On the surface, tube sites are propagated by a community of registered users who upload the videos that appear on each page, exactly like YouTube.

Structuring a site this way means that when copyrighted video ends up on a public server, wrongdoing is assigned to the individual uploading the content, not the site itself. The onus is on the copyright holder to notice the offense and take proper action. It’s a surprisingly advantageous structure for those in the business of showing ads against adult content. In fact, Lansky identifies the relationship between tube sites and the ad networks that make them profitable as the definitive problem entrepreneurs face in the adult world.



Even after successfully completing a DMCA takedown process, Lansky will still see the removed video reappear on offending sites again and again — a fact he finds not a little suspicious.





"You gotta ask yourself," he says, "what is the motivation of hundreds of people around the world to spend their internet time uploading adult content? Why would a normal human being with an internet connection and an average income spend hours and hours behind their own computer doing this? ... If it's their content, their mixtape, their edit, then there are thriving communities of artists uploading self-produced work out there. But other than that, [tube sites are] a piracy machine fueled by online advertising."

Tube site giant MindGeek did not reply to a request for comment.

Porn star Kendra Sunderland's first appearance on *Blacked* is Lansky's single most-pirated video. As it's taken down from one tube site, it appears on another right away. Lansky estimates he's lost revenue "in the millions" on this single piece of content.





Greg Lansky sits with some of his stars.

Part of the problem, he says, is that the relevant laws are simply out of date. "The laws that supposedly exist to help me protect my intellectual property were created during the days of dial-up," he says. "They don't work for today's modern internet."



And given porn's bad reputation, there's not a lot of external interest in protecting his business, though he argues his approach is as safe and respectable as the adult world gets. "I produce content that's sitting behind a pay site on a platform that requires a credit card. Customers have to be at least 18," he says. "Tube sites follow none of these regulations and make lots of money using my work."

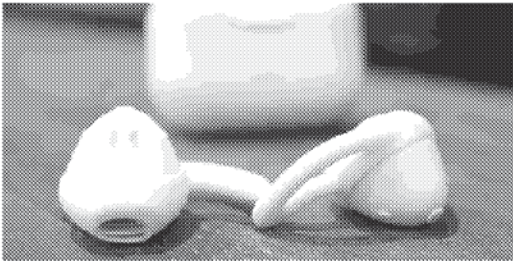
Case 2:17-cv-01731-TSZ Document 1-1 Filed 04/19/19 Page 49 of 90

And given porn's bad reputation, there's not a lot of external interest in protecting his brand, he says. "I produce content that's sitting behind a pay site on a platform that requires a credit card. Customers have to be at least 18," he says. "Tube sites follow none of these regulations and make lots of money using my work."

Don't mistake Lansky for a starving artist. It may be hard to pity a porn entrepreneur who regularly posts pictures of himself chilling on yachts with an entourage of well-endowed models, but he's selling a vision of porn that goes beyond himself. If people in the adult industry are actually going to earn a respectable wage, it depends on porn consumers paying for their finished product. And Lansky has already cracked that code meaningfully.

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Air Buds 2.0 \$36.99



Their case holds an additional 10 charges so you'll never run out of battery, and Bluetooth 4.2 technology means you'll never hear a dropped note, even in highly populated areas. Moreover, these headphones come with a IPX8 waterproof rating, something owners of the AirPods have been crying out for for a long, long time.

Buy Now

As he [wrote on Instagram](#) last week, captioning a picture of himself with model Eva Lovia drinking champagne by a pool, "Know your worth & never settle. #fridayvibes."



Instagram

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Instagram

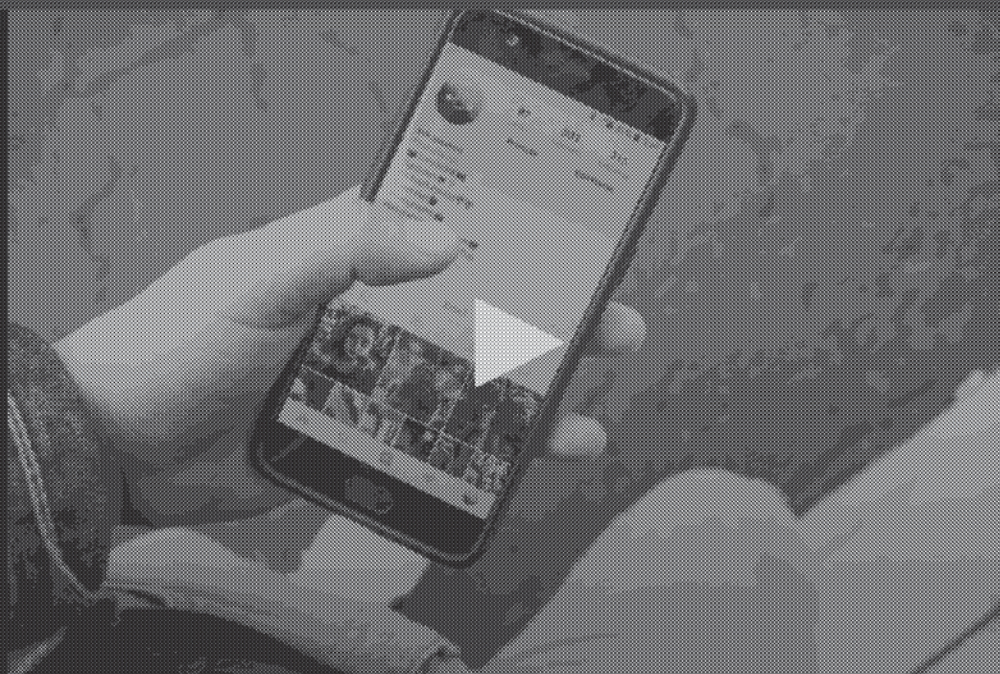
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Photos via Greg Lansky

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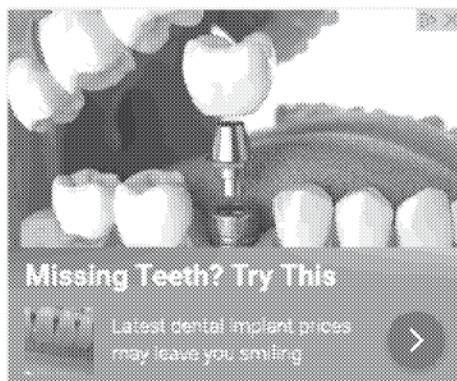
By Danny Paez on December 27, 2018

Filed Under Facebook, Social Networks & Video

By Danny Paez on December 27, 2018

Filed Under Facebook, Social Networks & Video

The end of another year means that Facebook will generate a personalized slideshow for each of its more than 2 billion users who uploaded pictures to the platform, and while the social media giant has been making these year-end retrospectives since 2014, it has yet to release a similar feature for Instagram, the photo-focused app it bought in 2012.


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19 Technology Predictions for 2019

Filed Under [Transportation](#), [Apple](#), [Cryptocurrency](#), [Smartphones](#), [SpaceX](#), [Virtual Reality](#)

Inverse is counting down our 19 biggest predictions for 2019, from what we expect out of tech giants like Apple and SpaceX to what we're expecting from the worldwide rollout of 5G, the next generation of gaming consoles, and the mass adoption of virtual reality.



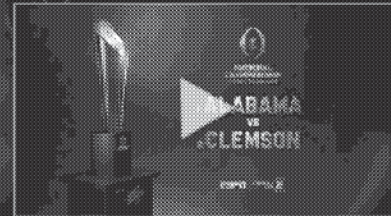
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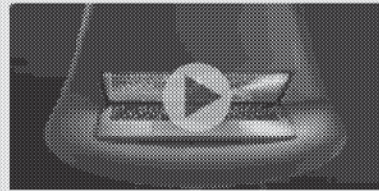
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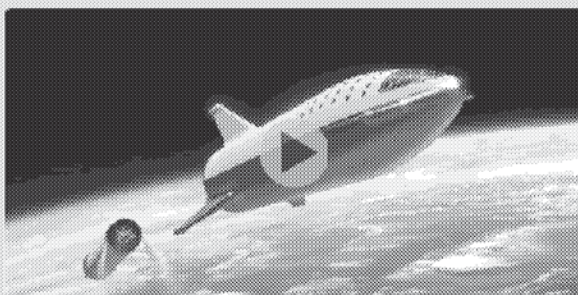
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- 3) Get access to your inbox

My Inbox Helper



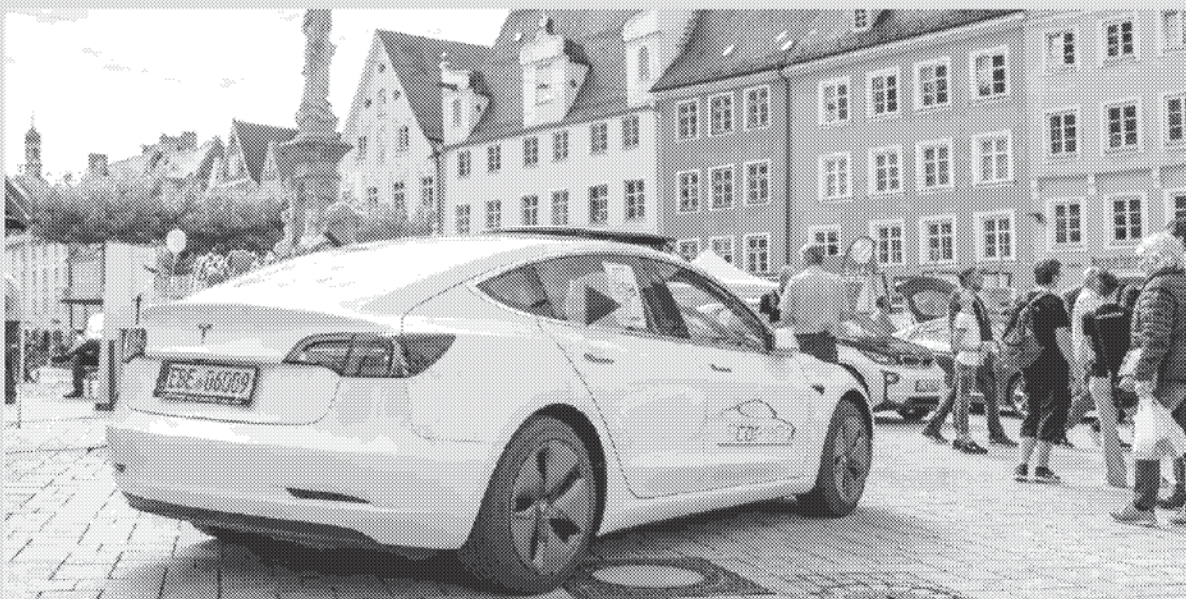
Elon Musk's ship is about to take flight.

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The market is about to get a lot more crowded.

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The Model 3 is going abroad.

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The Model 3 is going abroad.

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Facebook will move the needle... slightly.

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Samsung could be onto a winner.

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The world's largest cryptocurrency will keep its place.

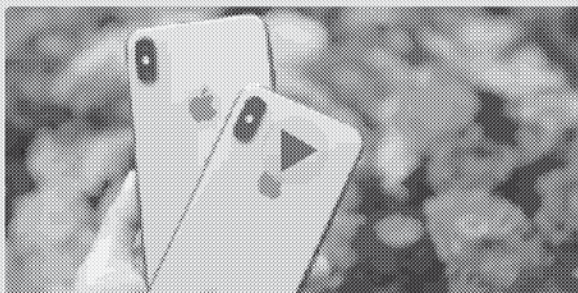
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Elon Musk Unveils Loop, The Boring Company's First Rideable Prototype

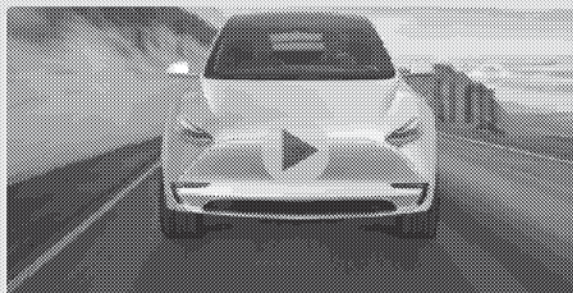
High hopes rest in this tunnel under L.A.

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The smartphone maker is about to make the jump.

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The sports utility vehicle may turn heads.

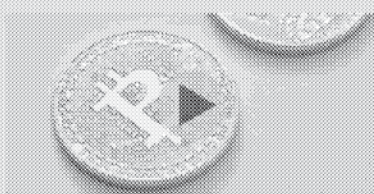
[Watch Video »](#)





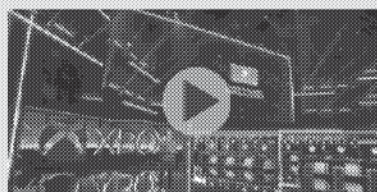
The cars are getting more experienced.

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It's going to be a big year for stability.

[Watch Video »](#)



Many analysts are expecting a 2020 launch.

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The game streaming service could stun.

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Lifelike: 20 Ways Robots Are Becoming More Like Us

Filed Under [Robots](#), [A.I.](#) & [Uncanny Valley](#)

In December 2018, *Inverse* will look back on all the eeriest ways that technologists were able to shrink the gap between man and machine with a

In December 2018, *Inverse* will look back on all the eeriest ways that technologists were able to shrink the gap between man and machine with a look back at the year's most memorable stories in robotics and A.I.



For robots and artificial intelligence to continue making life easier for humans, they'll have to learn how to master increasingly human-like skills, from learning how to dress oneself to how to crack jokes, create works of art, or determine whether someone seems happy or sad.

Watch this space for more additions all month long.

What did we miss? [Email your suggestions.](#)



In 2018, Google DeepMind Imbued A.I. With Human-Like Sight and Imagination

The landmark A.I. breakthrough of 2018.

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Watch A.I. Learn the Unique Human Pain of Getting Out of Bed in the Morning



Algorithms Learned How Size Up What You Look Like — and Find Your Twin



This Leveled-Up Autopilot Knows How to Evade Your Parking Tickets



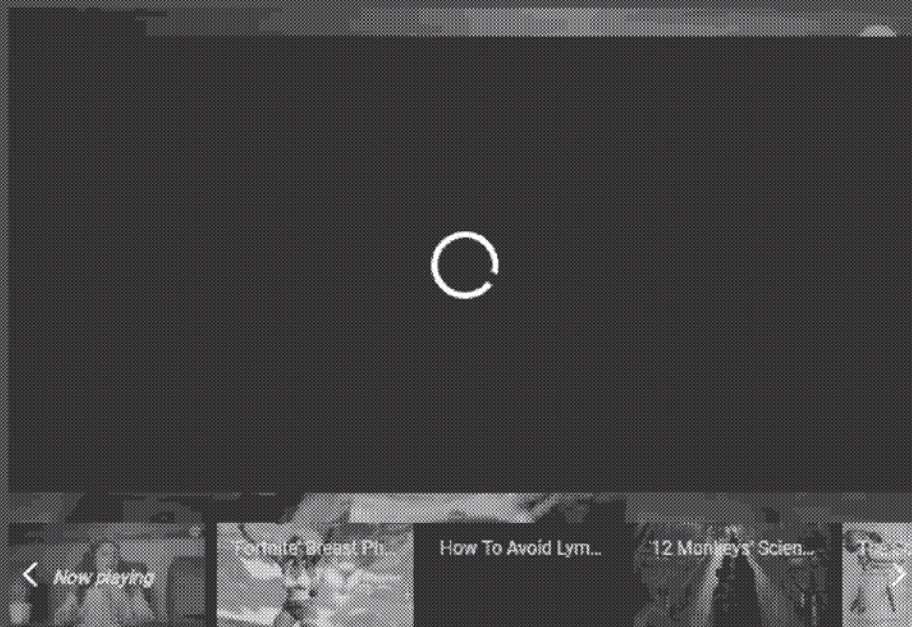
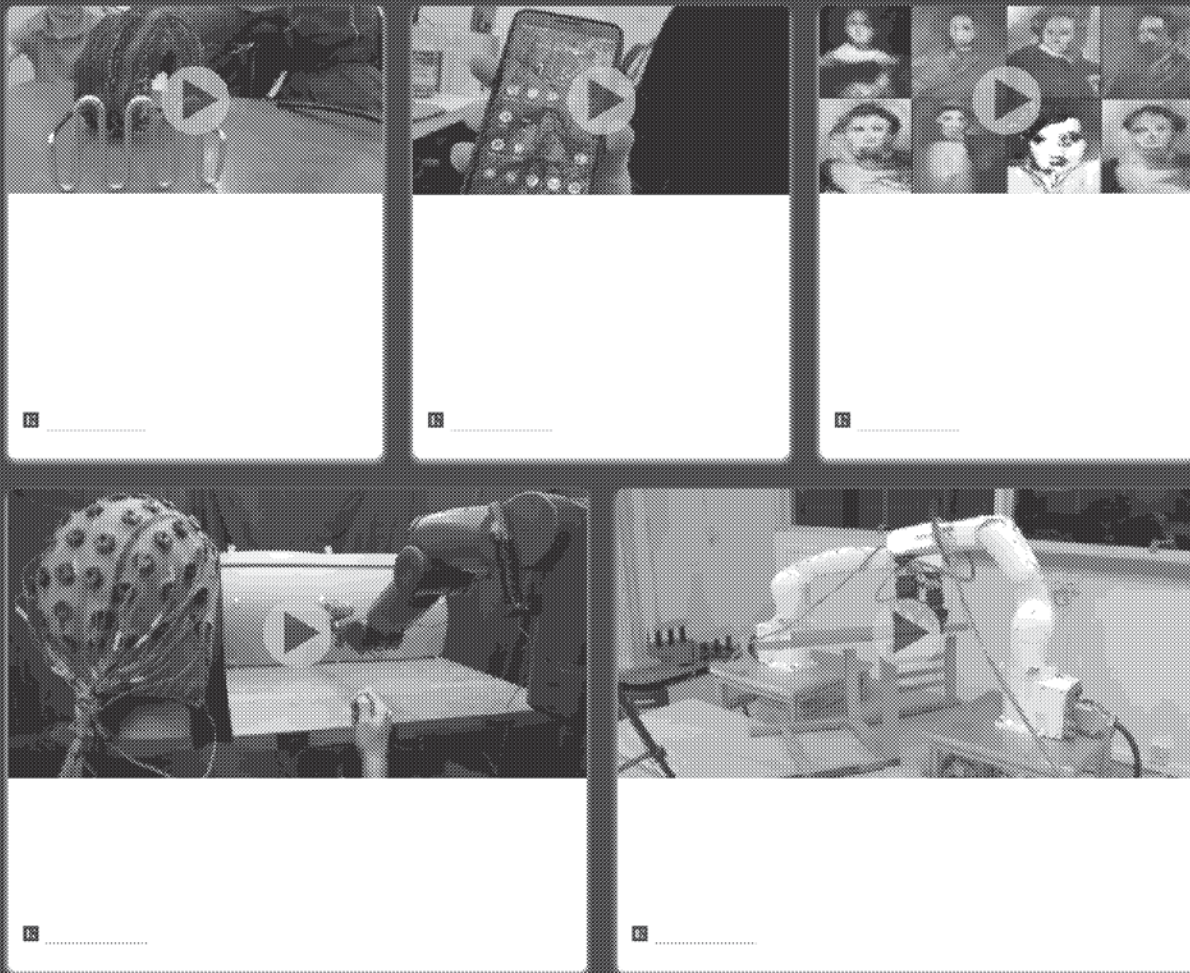
The only boot you'll need this fall.

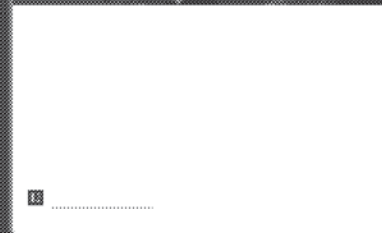
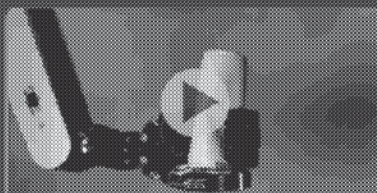
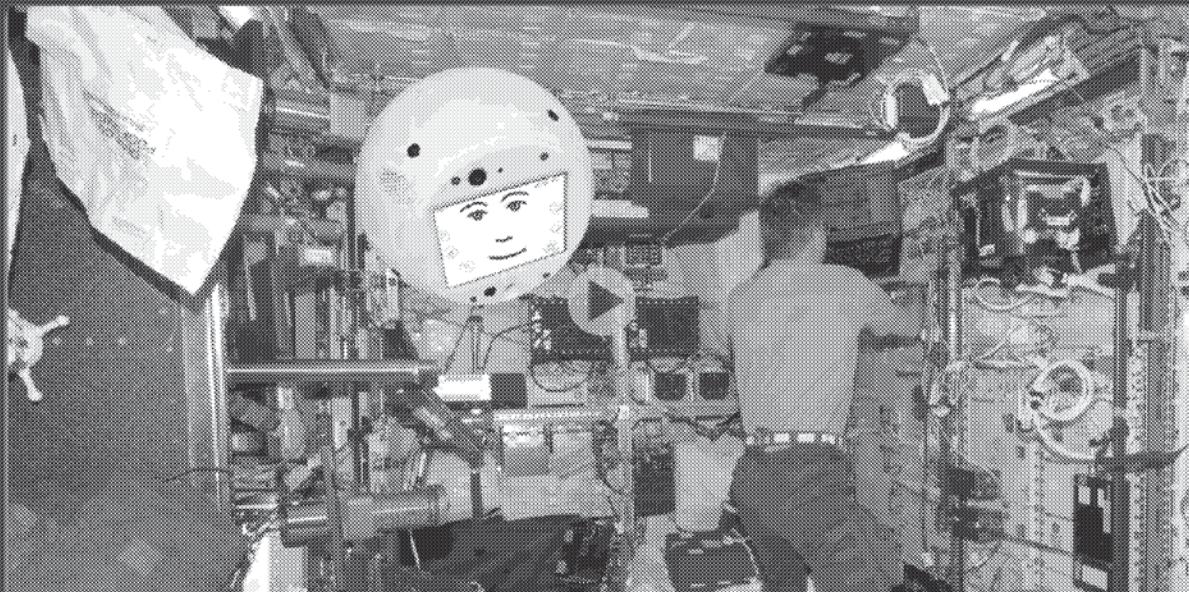
Thursday Boots

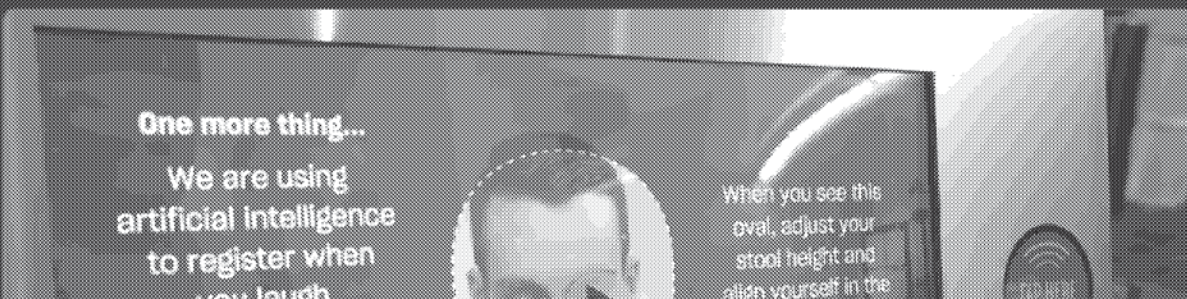
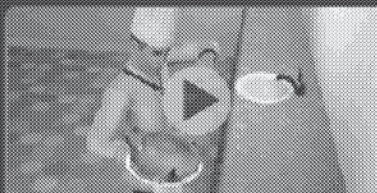
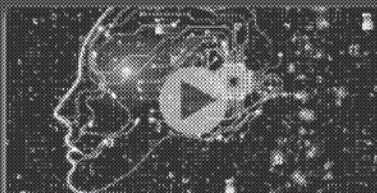
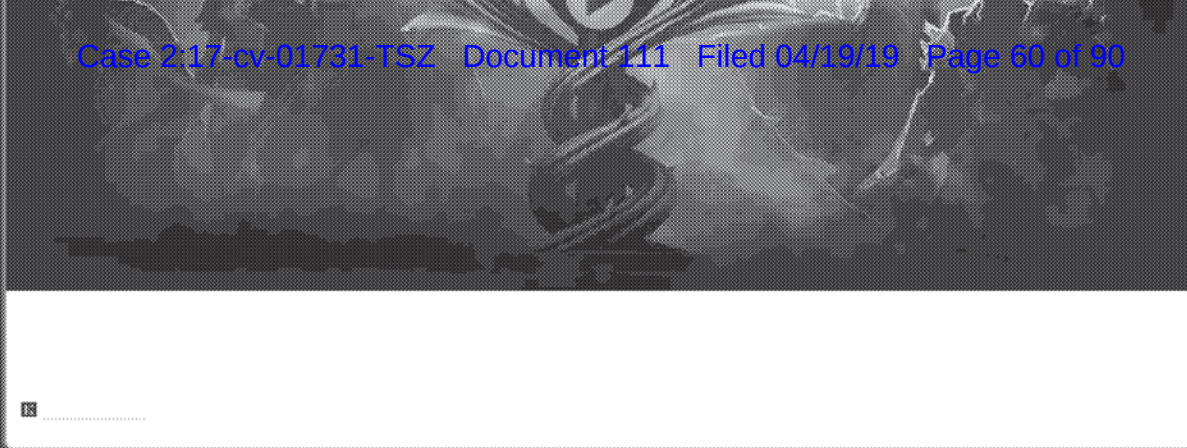


18









- Exhibit D -

23 counsel, paragraphing and other changes.

24

25

2

1 (Witness sworn.)

2 SUSAN BLACKWOOD STALZER,

3 called as a witness herein, having been first

4 duly sworn, was examined and testified as

5 follows:

6 EXAMINATION

7 BY MR. EDMONDSON:

8 Q. Good morning, Miss Stalzer. Could you

9 state your name for the record and spell it.

10 A. Susan Blackwood Stalzer,

11 S-t-a-l-z-e-r.

12 Q. And, Miss Stalzer, do you know why

13 you're here today?

14 A. I do.

15 Q. And have you seen this deposition

16 notice? Handing her a document we're going to

1 connection from that computer desktop into --
2 it's usually a box called a router?

3 A. Yes, I have -- it is connected.

4 Q. It does have a wired connection?

5 A. Correct.

6 Q. And then on your computer -- and I
7 think you stated it was Windows 10. What
8 application are you using to watch the movies?

9 A. We have a verification tool that was
10 designed by someone in whoever deals with the
11 technology.

12 Q. Okay. Well, I'm not talking about the
13 verification tool. Do you ever look at the
14 movies in their native format?

15 A. In the original films?

16 Q. Yeah, I'll give you an example, MP-4.
17 Are you familiar with the extension MP-4?

18 A. Yes, but I'm not -- your question is
19 not clear to me.

20 Q. Okay. Well, let's walk through it.

21 First day you got this job at --

22 for Strike 3 Holdings, how did you verify the

23 first work?

24 A. We have a verification tool in which I

25 can play the clips.

23

1 Q. Okay. What is the name of that

2 verification tool?

3 A. Verification tool.

4 Q. Okay. Who made the verification tool?

5 A. I have no idea.

6 Q. How do you know the verification tool

7 works?

8 MR. BANDLOW: Objection. Vague and

9 ambiguous.

10 THE WITNESS: It works in what regard?

11 I don't understand the question.

12 BY MR. EDMONDSON:

13 Q. How do you know it actually verifies

14 the works.

15 A. I verify the work.

16 MR. BANDLOW: She verifies.

17 THE WITNESS: The application -- the
18 tool -- the site does not verify them. I
19 verify them. All it does is allow me to
20 play them.

21 BY MR. EDMONDSON:

22 Q. Okay. So what does it look like when
23 it plays the film? Describe that for me.

24 A. When I -- I have a place where I can
25 click the film to play and it opens and plays,

24

1 and I see the film.

2 Q. Is it a web application?

3 A. I don't know the answer to that.

4 Q. Well, how do you get access to the
5 works that you're verifying?

6 A. They're uploaded into the verification
7 tool.

8 Q. Who uploads them into the verification
9 tool?

10 A. Our technology department.

11 Q. Well, you're an independent

12 contractor, correct?

13 A. Correct.

14 Q. Do you have a technology department?

15 A. Do I personally? No.

16 Q. Yes. So you're speaking of

17 Strike 3 Holding's technology department?

18 A. Yes.

19 Q. Or IT --

20 A. Or someone that is employed by them.

21 Q. Okay. When does it get uploaded?

22 A. I have no idea.

23 Q. How do you know you have things to

24 verify?

25 A. I'm verified.

25

1 Q. How do you get verified?

2 A. An e-mail.

3 Q. And what's in that e-mail?

4 A. "There are films to be verified.

5 Please do so."

6 Q. Okay. And in that e-mail, is there,
7 for example, a hyperlink that links it to that
8 particular --

9 A. No.

10 Q. What do you see in that e-mail?

11 A. The wording that I told you.

12 MR. BANDLOW: Objection. Asked and
13 answered.

14 BY MR. EDMONDSON:

15 Q. What's that?

16 A. The wording that I told you.

17 Q. Is it just a list of films?

18 A. No, sir. There's nothing in the
19 e-mail other than a notification that there are
20 films in the tool for me to verify.

21 Q. Okay. So now then you see that e-mail
22 and you open up the verification system.

23 A. Correct.

24 Q. What's the first thing you see when
25 you open up the verification system?

1 A. A list of hash marks. A list of the
2 site that the film is purported to be coming
3 from, the title that is believed to be attached
4 to this film and a button where I can hit play
5 for the film to pop up for me to view it.

6 Q. Okay. And how is that information
7 organized?

8 MR. BANDLOW: Objection. Vague and
9 ambiguous.

10 THE WITNESS: Often alphabetically by
11 title.

12 BY MR. EDMONDSON:

13 Q. Okay. Is it organized by case?

14 A. No, sir.

15 Q. Do you have any idea if you're working
16 on a particular case?

17 A. No, sir.

18 Q. And do you know what I'm talking about
19 when I say the word case?

20 A. I have a reasonable understanding of
21 that, yes.

22 Q. Is the reasonable understanding that

23 we're referring to a particular lawsuit?

24 A. I understand that the films that I am

25 to verify are being looked at to see whether or

27

1 not they are Strike 3 property and therefore

2 whether or not someone has downloaded them

3 illegally, so, yes, I understand the purpose of

4 that is potential lawsuits.

5 Q. So let's go back to the process of

6 verification.

7 So you get an e-mail, correct?

8 A. Uh-hum.

9 Q. And then you go and you look at this

10 verification system. Has the verification

11 system ever not worked?

12 A. No.

13 Q. Okay. So it's worked perfectly?

14 A. Correct.

15 Q. Have you ever tested the verification

16 system?

17 MR. BANDLOW: Objection. Vague and

18 ambiguous.

19 THE WITNESS: In what regard?

20 BY MR. EDMONDSON:

21 Q. Okay. How do you know the

22 verification system works?

23 MR. BANDLOW: Objection. Vague and

24 ambiguous as to what works means.

25 THE WITNESS: The only thing it needs

28

1 to do from my end is for the films that

2 have been uploaded to be able to play. If

3 they do not play, then the file is corrupt

4 and that particular hash mark is marked as

5 bad.

6 BY MR. EDMONDSON:

7 Q. Okay. So have you ever had corrupted

8 files?

9 A. Yes.

10 Q. And then what do you do?

- 11 A. They're marked bad.
- 12 Q. You just mark good or bad?
- 13 A. Correct.
- 14 Q. And they're linked to a particular
- 15 hash mark, correct?
- 16 A. Correct.
- 17 Q. Next to the hash mark is there an URL?
- 18 A. No.
- 19 Q. Okay. So if you were to -- I'll give
- 20 you another blank piece of paper.
- 21 We'll mark this as 62.
- 22 (Whereupon, Exhibit
- 23 No. 62 was marked for
- 24 Identification, 04/16/2019.)
- 25

29

- 1 BY MR. EDMONDSON:
- 2 Q. To the best of your ability, drawing a
- 3 box, which I'm going to represent is a computer
- 4 screen --

5 A. Okay.

6 Q. -- can you kind of draw out what each
7 of the fields are on your computer screen that
8 you see in this verification system?

9 A. So there are hash marks here, titles
10 listed here, the site that is listed here, and
11 then there is a button to click play, and then I
12 have a box for good and a box for bad.

13 Q. And when you click play, what happens?

14 A. The film opens and plays.

15 Q. Which film opens and plays?

16 A. The one that's connected to that
17 specific hash mark. There will be a list of 500
18 films.

19 MR. BANDLOW: Possibly infringing
20 film, not our film.

21 MR. EDMONDSON: Well, I think she's
22 the witness today, Lincoln, and we'll --

23 MR. BANDLOW: It's what she previously
24 testified.

25 MR. EDMONDSON: Not with this diagram

1 in front of her at the time.

2 BY MR. EDMONDSON:

3 Q. So looking that screen -- and I'll
4 make sure you have a copy of it and you can see
5 it.

6 Can you see this okay,
7 Miss Stalzer?

8 A. Yes, sir.

9 Q. So you have this hash on this column
10 here, correct?

11 A. To clarify, it goes all the way down
12 the screen depending on how many of them have
13 uploaded and there may be multiple pages, but
14 yes.

15 Q. Are you able to scroll up and down
16 using like a sidebar?

17 A. Yes.

18 Q. You have used web browsers?

19 A. Yes.

20 Q. Okay. Does it look like sort of a
21 web-based application?

22 A. No.

23 Q. Okay. Did you have to install some

24 special software on your computer?

25 A. No.

31

1 Q. So how does it run?

2 MR. BANDLOW: Objection. Vague and
3 ambiguous. Lack of foundation.

4 BY MR. EDMONDSON:

5 Q. How do you start it?

6 A. I have a link to the verification and
7 a secure log-in to the verification tool. So I
8 open the page and I log in.

9 Q. So you do log-in using some sort of
10 application, correct?

11 A. I don't know the answer to that. I
12 open the tool and my log-in screen appears.

13 Q. Okay. Maybe I can -- we can clarify
14 with another exhibit.

15 MR. EDMONDSON: We'll mark this as 63.

16 (Whereupon, Exhibit

17 No. 63 was marked for

18 Identification, 04/16/2019.)

19 BY MR. EDMONDSON:

20 Q. You testified you have a HP computer.

21 A. Yes.

22 Q. I'm going to draw a box here which is

23 going to represent your screen.

24 Can you sketch out what your

25 screen looks like and what you click to start

32

1 the verification tool?

2 MR. BANDLOW: This is her home

3 page screen is what you're talking about?

4 MR. EDMONDSON: Yeah. I mean, I'll

5 still a little unclear the process of

6 starting the application.

7 THE WITNESS: I have a link saved to

8 the page. I open Google. I click on my

9 saved link to the verification page.

10 BY MR. EDMONDSON:

11 Q. Okay. And what -- you open Google and

12 something comes up on that link, correct?

13 A. No, sir. When I open Google, I have a

14 saved tab --

15 Q. Yes.

16 A. -- for the tool, the verification

17 tool.

18 Q. Right. So you open --

19 A. So I click that, and the tool opens

20 with a log-in screen --

21 Q. Okay.

22 A. -- for my user name and password.

23 Q. Are you within the Google browser?

24 You said you opened Google.

25 A. Am I using Google? Yes.

33

1 Q. Okay. And click on that link. And

2 does it insert a hyperlink into the Google

3 browser?

4 A. Okay.

5 MR. BANDLOW: It's a separate

6 favorite, a tab that's a favorite. Her
7 home page is Google and she has a tab, she
8 clicks it and it's in there.

9 MR. EDMONDSON: Could we go off the
10 record for a moment, please?

11 (A short break was taken.)

12 (Whereupon, Exhibit
13 No. 64 was marked for
14 Identification, 04/16/2019.)

15 MR. EDMONDSON: Let's go back on the
16 record.

17 BY MR. EDMONDSON:

18 Q. So we went on break. Did you talk to
19 anybody during the break aside from the court
20 reporter?

21 A. No -- that's not true. I mentioned to
22 the -- I couldn't find the bathroom, so I asked
23 the lady at the front.

24 Q. And did you talk to anybody about this
25 case?

1 A. No.

2 Q. Now, I have handed you a Document 63,
3 which is your sketch of your desktop. If I
4 understand your testimony correctly, there is a
5 link on your desktop. What's the title of that
6 link?

7 A. Verification tool.

8 Q. Verification tool. Who provided with
9 you that link?

10 A. Strike 3.

11 Q. Okay. And who at Strike 3 provided
12 you with that link?

13 A. Sud. Please do not ask me his last
14 name because can I not spell it, nor pronounce
15 it.

16 Q. Well, can you say it?

17 A. No, sir, I cannot pronounce it, and I
18 wouldn't guess at the spelling.

19 Q. Do you get e-mails directly from Sud?

20 A. I do.

21 Q. Well, how many e-mails have you gotten
22 from Sud since your engagement with Strike 3
23 started?

24 A. I don't know.

8 I'm verifying are tied to any specific case. I
9 have no knowledge of that, and I have no way of
10 knowing that, and I have no way of knowing if
11 the 200 files I'm given in the verification tool
12 all relate to one case or to 20 cases. I have
13 no knowledge of that.

14 Q. So let's just turn to Exhibit A of
15 this complaint.

16 A. Yes.

17 MR. BANDLOW: Which one are we
18 looking at?

19 MR. EDMONDSON: Exhibit A of 45.

20 MR. BANDLOW: 45.

21 MR. EDMONDSON: Yes. Back to the
22 80 works infringed.

23 BY MR. EDMONDSON:

24 Q. So on Work No. 1 can you tell me when
25 you verified Work No. 1?

1 A. No.

2 Q. And can you tell me when you verified

3 Work No. 2?

4 A. I won't be able to tell you the

5 specific date I verified any of these by this.

6 I don't have -- I do not keep in my memory what

7 day I verify what hash, and I don't know how

8 they relate to any specific case, so...

9 Q. Okay. So if I were to go 3 through 80

10 and ask you the same question, I would get the

11 same answer?

12 A. Correct.

13 Q. Okay. And going back to Exhibit 64 --

14 MR. BANDLOW: The same answer, right?

15 THE WITNESS: Correct.

16 MR. EDMONDSON: Let me ask the

17 question, Lincoln.

18 BY MR. EDMONDSON:

19 Q. You see there Work No. 1?

20 A. I do.

21 Q. And do you recall when you verified

22 Work No. 1 on Exhibit 64?

23 A. I cannot tell you that.

24 Q. Okay. How about 2?

25 A. I cannot tell you that.

1 Q. The same answer, 3 through 87?

2 A. Yes, sir.

3 Q. Do you see the date at the top,

4 7/3/18, July 3rd, 2018?

5 MR. BANDLOW: Up here.

6 THE WITNESS: Yes.

7 BY MR. EDMONDSON:

8 Q. Were you ever contacted by somebody at

9 Strike 3 Holdings to review this document prior

10 to July 3rd, 2018?

11 A. No.

12 Q. Were you ever contacted by somebody at

13 Fox Rothschild to review this document?

14 A. No.

15 Q. And the same going back to 45?

16 A. Correct.

17 Q. Prior to November 16th were you ever

18 asked to verify this information?

19 A. No.

20 Q. Have you ever been asked to verify any

21 exhibit on any complaint --

22 A. No.

23 Q. -- filed by Strike 3 Holdings?

24 A. No.

25 Q. Miss Stalzer, I'm going to hand you a

69

1 document we previously marked as 43. Just for
2 the record, this is plaintiff's motion for leave
3 to serve a third-party subpoena prior to the
4 Rule 26 conference.

5 Miss Stalzer, have you ever seen
6 this document before?

7 A. No.

8 Q. I'm going to give you an opportunity
9 to read it. It might take a few minutes. Just
10 tell me when you're done.

11 MR. BANDLOW: You want her to read
12 the entire 11-page document.

13 MR. EDMONDSON: Yeah. Well, she's
14 said she's never seen it before, so...

23 answered at this point.

24 THE WITNESS: No, sir.

25 MR. EDMONDSON: All right. I'll ask.

102

1 MR. BANDLOW: She stated very clearly
2 she didn't draft a single thing in this
3 declaration.

4 For you to go paragraph by
5 paragraph, you're not going to get anywhere
6 further than her statement she didn't draft
7 a single thing in this declaration. Asked
8 and answered.

9 BY MR. EDMONDSON:

10 Q. Okay. So see where it says IPP
11 provided me with the infringing motion picture
12 file?

13 A. Yes, I see that.

14 Q. Did IPP provide you with the
15 infringing motion picture file?

16 A. To the best of my knowledge, yes.

17 Q. How do you know that?

18 A. Because it has been told to me that

19 that is where the films come from that get voted

20 into the verification center.

21 Q. Miss Stalzer, I see up here you hold a

22 Bachelor's degree and a Master's degree from

23 English?

24 MR. BANDLOW: In English.

25 THE WITNESS: In English.

103

1 BY MR. EDMONDSON:

2 Q. In English. Is that true?

3 A. Yes.

4 Q. From Oakland University?

5 A. Yes.

6 Q. Would you say your command of the

7 English language is probably better than the

8 average person's?

9 MR. BANDLOW: Objection. Calls for
10 speculation. Vague and ambiguous.

8 associated with this particular exhibit,

9 correct?

10 A. They have been previously verified.

11 Q. I just want to be clear.

12 A. I understand. I'm trying to clarify

13 as well.

14 Q. Well, you're -- so I asked you a
15 question. When you're signing this declaration
16 for this particular case, or for any case, and
17 you have this exhibit open, do you go back and
18 verify the hashes, or do you even do it for the
19 first time, verify these hashes associated with
20 Exhibit A?

21 A. They are not sent to me by case. No,
22 I do not go back and verify a second time.

23 Q. So when you sign this declaration and
24 you have this Exhibit A, you don't verify
25 against this Exhibit A, correct?

117

1 A. No, I do not go back and verify a

2 second time.

3 Q. Is there anywhere on this declaration
4 where you talk about the verification system?

5 MR. BANDLOW: Objection. The
6 document speaks for itself.

7 MR. EDMONDSON: Well, I think
8 Miss Stalzer can say if there is or isn't.

9 MR. BANDLOW: Anybody with a set of
10 eyes and a reading ability can say whether
11 something is or isn't on a document.

12 But go ahead. Why don't you do it
13 for him?

14 THE WITNESS: There is no mention of
15 the specific method of verification or the
16 tool?

17 BY MR. EDMONDSON:

18 Q. Why isn't that information on this
19 declaration?

20 A. I cannot answer why there's not
21 information in a declaration that I did not
22 write. I assume the attorneys know the best way
23 to draft the declarations.

24 Q. Did you ever ask anybody at
25 Strike 3 Holdings why the verification system is

- Exhibit E -

1 (INSERT CAPTION/APPEARANCES/INDEX/SWORN)

2 STARTTIME9:40AM 4/17/19

3 (EXHIBIT MARKED/70)

4 Q Good morning, Mr. Pasquale.

5 A Good morning.

6 Q Could you please state and spell
7 your name for the record?

8 A John Pasquale, J-o-h-n,
9 P-a-s-q-u-a-l-e.

10 Q Do you have a middle name?

11 A Yes, Santo, S-a-n-t-o.

12 Q Excellent. Mr. Pasquale, have you
13 ever been deposed before?

14 A No, I have not.

15 Q Some of the grounds rules for a
16 deposition is the Court Reporter is taking down
17 our words, so if you can answer verbally, that
18 would be appreciated. She can't record gestures.

19 A Understood.

20 Q If you nod yes or shake no, she
21 can't take that down.

22 A Understood.

23 Q Do everything verbally. The other
24 thing, too, is that I might ask you to either to

8 Q And Paragraph 2, did you type up or
9 draft this statement?

10 A No.

11 Q The same with Paragraph 3?

12 A No.

13 Q How about Paragraph 4?

14 A No.

15 Q And Paragraph 5?

16 A No.

17 Q What about Paragraph 6?

18 A No.

19 Q Paragraph 7, it has a date and time
20 and an IP address. Did you draft this statement?

21 A No, I did not.

22 Q Do you recall when you received
23 that PCAP from IPP?

24 A I really couldn't tell you.

25 Q Do you know who IPP is?

↑

19

1 A The IPP for this transaction is
2 listed --

3 Q It says "company" there.

4 A I know of them, but do I know them?

5 No. Have I had a conversation with them? No.

6 Q Do you use email communications

7 with anybody at IPP?

8 A No.

9 Q Who sends the you the PCAP?

10 A Paul does.

11 Q Your nephew?

12 A My son. Philip is my nephew.

13 Write it down.

14 Q Your son is also involved in the
15 business?

16 A There's a lot of P's. My son owns
17 7 Rivers Systems.

18 Q So we've got Paul your son owns 7
19 Rivers Systems. Is he a computer guy?

20 A I would say so.

21 Q Do you know if he studied
22 electrical engineering or computer science?

23 A He has a electrical engineering
24 degree from Cooper Union, and he also has a
25 security degree from Carnegie Mellon as a

↑

20

1 master's.

2 Q He has a master's from Carnegie
3 Mellon in Pittsburgh. Cooper Union, is that New
4 Jersey?

5 A No, new York City.